



The Comptroller General
of the United States

Washington, D.C. 20548

Spangenberg - AC

Decision

Matter of: Great Southern Travel Services and Tri-States
Service Company, A Joint Venture
File: B-229883.2

Date: January 22, 1988

DIGEST

Protest that the award selection of travel services contract was based upon allegedly illegal concession fee on unofficial international travel is untimely filed under the General Accounting Office's Bid Protest Regulations, where the solicitation specifically solicited concession fees and provided that it was an award evaluation factor, and the protest was not filed prior to the closing date for receipt of initial proposals.

DECISION

Great Southern Travel Services and Tri-States Service Company, a joint venture (GST/TS), protest the award of a contract to Ask Mr. Foster pursuant to request for proposals No. DAKF49-87-R-0001 (RFP), issued by United States Army, Fort Sam Houston, Texas, for the management and operation of travel services (official and unofficial) for the Fifth Army.

GST/TS claims that the awardee proposed illegal "rebates" on leisure and unofficial international air travel and that this "tainted rebate" improperly became the award selection basis.

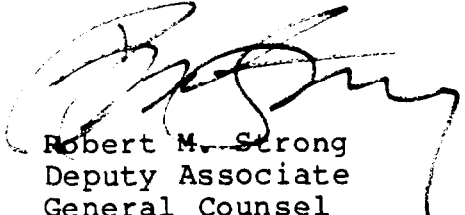
The Army claims that GST/TS's protest is untimely under the Bid Protest Regulations, since it is a "thinly disguised" protest against a solicitation provision. In this regard, the RFP specifically solicited "a concession fee for unofficial travel services" to be paid the government which was to be a percentage of the contractor's "gross unofficial sales." The RFP further provided that the proposed concession fee was an award evaluation factor.

GST/TS's protest was filed at our Office on January 4, 1988, after the award selection was announced. Initial proposals were received on March 31, 1987, and GST/TS expressed concern in its proposal and during discussions that the

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payment to the Army of concession fees on unofficial international travel was illegal. Since the RFP clearly solicited concession fees on all unofficial travel and advised that it was an award evaluation factor, we agree with the Army that GST/TS's protest actually concerns a solicitation provision.

Protests based upon alleged solicitation improprieties are required to be filed prior to the closing date for receipt of initial proposals in order to be considered timely under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1987). Since GST/TS's protest was not timely filed, it is dismissed.



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General Counsel